BILLS AND NOTES — NOTE PAYABLE AT BANK — PAYMENT — PRESENTMENT AND NOTICE OF DISHONOR. — A promissory note was sent by mail for collection by the holder to the bank at which it was made payable. The day after maturity, the maker, hearing that the note had reached the bank, requested the president of the bank to charge it to his account, on which he was credited with sufficient funds to meet the note, and was informed that such would be done. Seven days later the bank failed without having taken further action on the note. During all this time the holder made no inquiries concerning the note. The holder now sues the maker. *Held*, that he cannot recover. *Baldwin's Bank of Penn Yan* v. *Smith*, 109 N. E. 138 (N. Y.).

For a discussion of this case, see NOTES, p. 204.

CARRIERS — INTERSTATE COMMERCE — CONNECTING LINES — LIABILITY UNDER CARMACK AMENDMENT FOR EXCESS CHARGE. — The plaintiff shipped lumber by the defendant railway to a point beyond the defendant's lines. By an error of a connecting carrier the lumber was misrouted and additional freight charged. Although the defendant had contracted only to deliver to the connecting carrier and had expressly restricted its liability to its own line, the plaintiff sues for the excess charge under the Carmack Amendment, which subjects the initial carrier to liability for "loss, damage, or injury to such property" caused by a connecting carrier, and forbids any form of contractual exemption. U. S. COMP. STAT. 1913, § 8592, cl. 11. *Held*, that the defendant is liable. *Chesapeake & O. Ry.* v. *W. T. Ward Lumber Co.*, 60 Oh. L. Bull. 594, 35 O. C. C. 594.

A carrier's liability beyond its own terminus is contractual. See *Erie Ry. Co.* v. *Wilcox*, 84 Ill. 239, 240; *Atchison, T. & S. F. R. Co.* v. *Denver & N. O. R. Co.*, 110 U. S. 667, 680. And whether such a contract has been made is a question of fact. *Gray* v. *Jackson*, 51 N. H. 9. The English rule, adopted in a few states, is that the mere acceptance of the goods for a point beyond the carrier's own terminus is *primâ facie* evidence of a contract to carry them there, and thus involves liability for the negligence of the connecting carriers as agents. *Muschamp* v. *Lancaster & P. J. Ry. Co.*, 8 M. & W. 421. See *Erie Ry. Co.* v. *Wilcox*, 84 Ill. 239, 240. See 21 HARV. L. REV. 539. On the other hand, in the United States before the amendment, by the weight of authority, further evidence of a contract was necessary for this liability to attach. *Myrick* v. *Michigan Central R. Co.*, 107 U. S. 102; *Louisville & N. R. Co.* v. *Cooper*, 19 Ky. L. R. 1152, 42 S. W. 1134; *Van Santvoord* v. *St. John*, 6 Hill (N. Y.) 157. On either view, the defendant's liability in the principal case must rest solely upon the Carmack Amendment, since the existence of any contract is expressly negatived. But an excess charge does not come within the scope of the amendment, for a money loss to the owner is not "loss, damage, or injury to . . . property." *Chattanooga Foundry & Pipe Works* v. *City of Atlanta*, 203 U. S. 390; *Wolf* v. *Wall*, 40 Oh. St. 111. See *Gulf, C. & S. F. Ry. Co.* v. *Nelson*, 139 S. W. 81, 85 (Tex.). *Cf. Missouri, K. & T. Ry. Co.* v. *Stark Grain Co.*, 103 Tex. 542, 131 S. W. 410. Nor is it possible to consider the amendment as an enactment of the English rule, for the qualifying phrase "to property" clearly refers to all three preceding words. See *Great Western Ry. Co.* v. *Swindon & C. E. Ry. Co.*, 9 A. C. 787, 808. Accordingly, the principal case seems to impose a wider liability than the provisions of the amendment warrant.

CONDITIONAL SALES — CONFLICT OF LAWS — SALE BY CONDITIONAL VENDEE. — A conditional vendee in Massachusetts sold a chattel in the same state to one who was assumed by the court to have taken without notice of the con-

dition. The latter subsequently transported the property to Pennsylvania, where the defendant bought it in good faith. Upon removing it to Delaware he was there sued in replevin by the original vendor. The court gave judgment for the defendant. *Fuller* v. *Webster*, 95 Atl. 335.

In Massachusetts and Delaware a *bonâ fide* purchase from a conditional buyer does not divest the original seller of his right. *Coggill* v. *Hartford & N. H. R. Co.*, 3 Gray (Mass.) 545; *Watertown Steam Engine Co.* v. *Davis*, 5 Houst. (Del.) 192. In Pennsylvania it does. *Dearborn* v. *Raysor*, 132 Pa. St. 231, 20 Atl. 690. Now the rights of a buyer purchasing goods from a conditional vendee should be determined by the law of the place of purchase and not by the law of the state where the conditional vendee had originally obtained the goods. *The Marina*, 19 Fed. 760; *Cooper* v. *Phila. Worsted Co.*, 68 N. J. Eq. 622, 57 Atl. 733. See WILLISTON, SALES, § 339. But, in the principal case, if the attempted unconditional purchase by the sub-vendee in Massachusetts was a conversion, the sub-vendee acquired nothing which he could convey in Pennsylvania. However, Massachusetts law recognizes a transfer to the sub-purchaser of the conditional vendee's beneficial interest, where the original contract of sale does not prohibit assignment or removal of the article from the conditional vendee's possession. *Day* v. *Bassett*, 102 Mass. 445; *Chase* v. *Ingalls*, 122 Mass. 381; *Dame* v. *Hanson*, 212 Mass. 124, 98 N. E. 589. The attempted sale is treated as an assignment of the beneficial interest, and the analogy of the tortious transfer of, or swollen claim in, a pledge is wisely ignored. For the interest of a conditional vendee, differing from that of a pledgee, is that of beneficial ownership, and entitles its possessor to use the property as his own. See WILLISTON, SALES, §§ 331 *et seq.* But attachment by a creditor of the conditional vendee is a conversion. *Barrett* v. *Pritchard*, 2 Pick. (Mass.) 512; *Blanchard* v. *Child*, 7 Gray (Mass.) 155; *Nichols* v. *Ashton*, 155 Mass. 205, 29 N. E. 519. The distinction would seem to lie in that the attachment process involves the legal title.

CONSTITUTIONAL LAW — DUE PROCESS OF LAW — RIGHT TO CONFER WITH EXPERT WITNESSES. — The plaintiff, who had brought a bill to restrain the defendant, his former employee, from divulging certain alleged secret processes, obtained a preliminary injunction forbidding the defendant from disclosing these processes to expert witnesses whom he intended to call to prove that the processes were well known to the trade. *Held*, that the injunction denied the defendant due process of law. *Masland* v. *Du Pont De Nemours Powder Co.*, 224 Fed. 689 (C. C. A., 3d Circ.).

To prevent the impairment of a disputed right, a temporary injunction will be granted at the discretion of the court to preserve the *status quo* pending the adjudication of that right. *Alderman & Sons Co.* v. *Wilson*, 69 S. C. 156, 48 S. E. 85; *Sims* v. *Sims*, 110 Ga. 283, 34 S. E. 847. But the court in exercising its discretion should consider the effect of granting or refusing the injunction on both parties and take the course which seems most conducive to justice. See *Sampson & Murdock Co.* v. *Seaver-Radford Co.*, 129 Fed. 761, 771. It is obvious, in the principal case, that the interest which the plaintiff claims would be utterly destroyed by an unrestrained disclosure of the secret processes to witnesses. On the other hand, the right to enjoy due process of law gives the defendant a right to be heard in his own defense. *Harley* v. *Montana, etc. Co.*, 27 Mont. 388, 71 Pac. 407. To prevent consultation with expert witnesses is to some extent an infringement of that right. Again, the plaintiff's right can be largely protected by an injunction forbidding the witnesses from disclosing the processes pending suit, the injunction to be made permanent if the plaintiff's contention is sustained. Hence, in the conflict of disadvantages which this case involves, the balance of justice is with the defendant and the result of the principal case seems correct. But it may well be doubted that the opposite result